

## **R381-40-4. LICENSE APPLICATION, RENEWAL, CHANGES, AND VARIANCES.**

This section describes how to apply for a license, renew a license, change an existing license, and how to request a variance to a specific licensing rule.

### *License Application*

**(1) Each applicant for a new child care license shall:**

- (a) submit an online application;**
- (b) submit a copy of a current local fire clearance or a statement from the local fire authority that a fire inspection is not required;**
- (c) submit a copy of a current local business license or a statement from the city that a business license is not required;**
- (d) have a copy of the educational credentials of the individual who will be the director as required in Section R381-40-7, ready for review by the department;**
- (e) complete CCL background checks for covered individuals as required in Section R381-40-8;**
- (f) complete CCL new provider training no more than six months before becoming licensed; and**
- (g) pay any required fees, which are nonrefundable.**

### **Compliance Guidelines**

#### *New Provider Training and Support*

The applicant should become familiar with licensing rules and take the department's [New Provider Training](#) as the first steps in the application process. Specific details on how to apply for a child care license are explained in this training. CCL keeps a list of those who complete this training.

During the application period, the applicant is to create an account through [ccl.utah.gov](http://ccl.utah.gov) to receive access to their CCL provider portal. The email address used to create this account must be the email address used as their facility contact information.

#### *Required CCL Forms and Documents*

When applying for a child care license, the applicant must submit the following CCL-approved forms:

- [Online Application](#)

- [Background Check Form](#)

- Each covered individual must pass a CCL background check. Background checks that are run by other organizations do not meet the requirements of this rule.
- To learn how to request a CCL background check, refer to: [How to Submit Background Check Forms, Fingerprints, & Fees](#) or “[Section 8: Background Checks](#)” in this manual.

The child care facility must have a qualified director whose educational credentials meet licensing requirements. The applicant must submit a copy of those credentials to CCL for approval. Refer to “[Section 7: Personnel and Training Requirements](#)” for a list of required director qualifications and approved educational credentials.

#### *Business License, Fire and Kitchen Inspections, and Fees*

To operate a business in Utah, each applicant needs to obtain a business license from the city where their child care facility will be located. Each city sets its own regulations and fees for obtaining a business license. A copy of the license must be submitted to CCL during the application period.

Child care facilities must pass a fire inspection by their local fire authority each year and pass a kitchen inspection by the local county health department to obtain a license. It is advisable for the applicant to schedule these inspections early in the application process in allowing time to make any corrections ordered by the local fire or health department. Fire departments and local health departments generally charge a fee to conduct these inspections.

Utah requires the applicant to pay child care licensing fees. CCL’s fee schedule is available on CCL’s website under [Payments](#).

- (2) Each applicant shall pass a department's inspection of the facility before a new or a renewal license is issued.**

#### **Rationale/Explanation**

Licensing inspections are important to assist facilities to achieve and maintain full compliance with licensing rules. CFOC 4th ed. Standard 10.4.2.1 p.p. 442.

#### **Compliance Guidelines**

After the applicant has submitted all required documents and fees to obtain a child care license, CCL will schedule the Pre-License Inspection with the applicant. The applicant must demonstrate compliance with all licensing rules before a license will be issued. The Pre-License Inspection checklist is available under [Forms and Documents](#). In order for a child care provider to renew their license, they must pass annual inspections verifying their compliance with licensing rules. Refer to the Introduction section of this manual for more

information about annual inspections.

- (3) If the local fire authority states that an applicant for a new license or a renewal does not require a fire inspection, the department shall verify the applicant's compliance with the following:
- (a) address numbers and letters are readable from the street;
  - (b) exit doors operate properly and are well maintained;
  - (c) there are no obstructions in exits, aisles, corridors, and stairways;
  - (d) exit doors are unlocked from the inside during business hours;
  - (e) exits are clearly identified;
  - (f) there is at least one unobstructed fire extinguisher on each level of the building, currently charged and serviced, and mounted not more than five feet above the floor;
  - (g) there are working smoke detectors that are properly installed on each level of the building; and
  - (h) boiler, mechanical, and electrical panel rooms are not used for storage.

### Rationale/Explanation

The child care licensing, building, fire safety, and health authorities, as well as any other regulators (e.g., environmental, sanitation, and food safety), should work together as a team to safeguard children in child care. CFOC 4th ed. Standard 10.4.2.4 p.p. 443.

### Compliance Guidelines

If the facility is not inspected by the local fire authority, a licensor will:

- Inspect the facility for compliance with this rule at the Pre-License Inspection and before the license renewal each year.

Refer to the following guidelines:

- Address numbers and/or letters must be readable from the street.
- Doors identified as exits must be able to open and close.
- Indoor and outdoor exits may not be blocked.
- Exit doors must be unlocked from the inside or have emergency release devices (such as a push bar or button release) so that they can be opened immediately in an emergency.
- It is required that exits be clearly identified (any sign identifying the exit is acceptable).
- There must be at least one all-purpose fire extinguisher on each level of the facility:
  - Caregivers should know the location of the fire extinguisher and it should be easily accessible.
  - The fire extinguisher's seals should be intact.
  - The gauge must show that the extinguisher is charged.
- At least one well-maintained (not chirping) smoke detector is required on each level of the building.

### **Risk Level**

Moderate

### **Corrective Action for 1st Instance**

Citation Warning

- (4) If an applicant for a new license or a renewal serves food and the local health department states that a kitchen inspection is not required, the department shall verify the applicant's compliance with the following:
- (a) the refrigerator is clean, in good repair, and working at or below 41 degrees Fahrenheit;
  - (b) there is a working thermometer in the refrigerator;
  - (c) reusable food holders, utensils, and food preparation surfaces are washed, rinsed, and sanitized before each use;
  - (d) chemicals are stored away from food and food service items;
  - (e) food is properly stored, kept to the proper temperature, and in good condition; and
  - (f) there is a working handwashing sink in the kitchen and handwashing instructions posted by the sink.

### **Rationale/Explanation**

Inspectors from state and local agencies with appropriate training should check food service equipment and provide technical assistance to facilities. The local public health department typically conducts such inspections. Local health department regulations for food safety are based on scientific data about the conditions required to prevent contamination of food with infectious or toxic substances that cause foodborne illness. CFOC 3 ed. Standard 1.4.5.1 p.p. 30; Standard 4.8.0.2 p.p. 186; Standard 4.9.0.1 p.p. 188.

### **Compliance Guidelines**

The child care facility must have a kitchen inspection if the local municipality requires a kitchen inspection..

The following guidelines apply in the assessment of this rule:

- The refrigerator should be free of a buildup of spills, dirt, and grime.
- Chemicals must be stored at least 3 feet away from food and food service items, or separated by a solid barrier.
- Food should show no signs of spoilage, such as mold or obvious rancid smells.

### **Risk Level**

Moderate

### **Corrective Action for 1st Instance**

Citation Warning

- (5) Each applicant shall have six months from the time any portion of the application is submitted to finish the licensing process. If unsuccessful, the applicant shall reapply. Any resubmission must include the required documentation, payment of licensing fees, and a new inspection of the facility in order to be licensed.
- (6) The department may deny an application for a license if, within the five years preceding the application date, the applicant held a license or a certificate that was:
- (a) closed under an immediate closure;
  - (b) revoked;
  - (c) closed as a result of a settlement agreement resulting from a notice of intent to revoke, a notice of revocation, or a notice of immediate closure;
  - (d) voluntarily closed after an the department found a violation to any rule under R381-40 that would have resulted in a notice of intent to revoke or a notice of revocation had the provider not closed voluntarily; or
  - (e) voluntarily closed having unpaid fees or civil money penalties issued by the department.
- (7) Each child care license expires at midnight on the last day of the month shown on the license, unless the license was previously revoked by the department, or voluntarily closed by the provider.

#### *License Renewal*

- (8) Within 30 to 90 days before a current license expires, the provider shall submit for renewal:
- (a) an online renewal request;
  - (b) applicable renewal fees;
  - (c) any previous unpaid fees; and
  - (d) a copy of a current fire inspection report.

#### **Compliance Guidelines**

As part of the license renewal process, the facility must pass an inspection by:

- The local fire authority; or pass an inspection by CCL that verifies compliance with 40-4(3) if the local fire authority states that a fire inspection is not required.

- (9) The department may grant a provider who fails to renew their license by the expiration date an additional 30 days to complete the renewal process if the provider pays a late fee.

#### **Compliance Guidelines**

A provider may choose not to renew their child care license or they may voluntarily close their child care facility, pay all pending fees, and relinquish their license at any time. However, all

licensing rules must be in compliance and all licensing procedures (such as inspections, background checks, and fees) will continue until the facility closes and the provider no longer cares for children.

**(10) The department may deny renewal of a license for a provider who is no longer caring for children.**

### **Compliance Guidelines**

The provider's child care license will be closed on the day they are no longer caring for children, or if the child care facility is found vacant.

### *License Changes*

**(11) Each provider shall submit a complete application for a new license at least 30 days before any of the following changes occur:**

- (a) a change of the child care facility's location; or**
- (b) a change that transfers 50 percent or more ownership or controlling interest to a new individual or entity.**

### **Compliance Guidelines**

If a provider will be changing the location of their facility, they may begin the application process, but may not care for children at the new location until their new license has been approved.

For a change of location, the provider must submit the following to CCL:

- An online application for a new child care license;
- A copy of a current local fire clearance or a statement from the local fire authority that a fire inspection is not required for the new facility;
- A copy of a current local business license or a statement from the city that a business license is not required; and
- All required fees, which are nonrefundable.

The following submissions are not required for a change of location:

- CCL background checks if they are current for all covered individuals as required in rule;
- A copy of the director's educational credentials if the director will remain the same; and

For a change of ownership, the provider must submit an application, documentation, and fees for a new license except the following:

- A copy of a current local fire clearance or a statement from the local fire authority that a fire inspection is not required for the new facility;

- A copy of a current local health department kitchen clearance or a statement from the local health department that a kitchen inspection is not required for the new facility; and

**(12) A provider shall submit a complete online changes request to amend an existing license at least 30 days before any of the following changes:**

- (a) an increase or decrease of licensed capacity, including any change to the amount of usable indoor or outdoor space where child care is provided;
- (b) a change in the name of the program;
- (c) a change in the regulation type of the program;
- (d) a change in the name of the provider;
- (e) an addition or loss of a director; or
- (f) a change in ownership that does not require a new license.

#### **Compliance Guidelines**

- Apply for a license change through the [Child Care Licensing Portal](#)
- If a change of director was unexpected, the provider has 30 days from the former director's last day of work to submit a change application.
- A CCL fee is charged if the provider makes more than 2 license changes per licensing year.

#### **Risk Level**

Low

#### **Corrective Action for 1st Instance**

Warning

**(13) The department may amend a license after verifying that the applicant is in compliance with each applicable rule under R381-40 and required fees have been paid. The expiration date of the amended license remains the same as the previous license.**

**(14) Only the department may assign, transfer, or amend a license.**

#### **Compliance Guidelines**

- The provider must operate under their own license issued by the department.
- The provider must not alter the license in any way or for any reason.

#### **Risk Level**

High

#### **Corrective Action for 1st Instance**

Citation and CMP Warning

#### *Rule Variances*

- (15) If an applicant or provider cannot comply with a rule under R381-40 but can meet the intent of the rule in another way, the applicant or provider may apply for a variance to that rule by submitting a request to the department

#### **Compliance Guidelines**

The provider may submit a variance request online through their Child Care Licensing portal.

- (16) The department may:
- (a) require additional information before acting on the variance request; and
  - (b) impose health and safety requirements as a condition of granting a variance.
- (17) Each provider shall comply with the existing R381-40 rules until a variance is approved by the department.
- (18) If a variance is approved, the provider shall keep a copy of the written approval on-site for review by parents and the department.

#### **Compliance Guidelines**

An electronic copy of the variance approval is acceptable as long as it is available on-site for review by parents and CCL staff.

#### **Risk Level**

Low

#### **Corrective Action for 1st Instance**

Warning

- (19) The department may grant variances for up to 12 months.

#### **Compliance Guidelines**

Providers must reapply for variances annually as needed.

- (20) The department may revoke a variance if:
- (a) the provider is not meeting the intent of the rule as stated in their approved variance;
  - (b) the provider fails to comply with the conditions of the variance; or
  - (c) a change in statute, rule, or case law affects the basis for the variance.